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SERVICE DATE – JUNE 20, 2008

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-762X

MIDDLETOWN AND NEW JERSEY RAILWAY COMPANY, INC.—ABANDONMENT  
EXEMPTION—IN ORANGE COUNTY, NY

Decided: June 19, 2008

Middletown and New Jersey Railway Company, Inc. (M&NJ) filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon a 7.50+/- mile line of railroad between milepost 6.50 +/- in Slate Hill and milepost 14.00+/- in the Village of Unionville, in Orange County, NY. Notice of the exemption was served and published in the Federal Register on May 20, 2008 (73 FR 29176). The exemption is scheduled to become effective on June 19, 2008.

The Board's Section of Environmental Analysis (SEA) issued an environmental assessment (EA) in this proceeding on May 23, 2008. In the EA, SEA stated that the National Geodetic Survey (NGS) has identified five geodetic station markers that may be affected by the proposed abandonment. Accordingly, SEA recommended a condition requiring M&NJ to consult with NGS and notify NGS at least 90 days prior to beginning salvage activities that will disturb or destroy any geodetic station markers.

SEA also stated that it has not heard from the New York State Office of Parks, Recreation and Historic Preservation (SHPO) and, therefore, has not been able to consider the SHPO's opinion before determining if the rail line may be potentially eligible for listing in the National Register of Historic Places (National Register). Accordingly, SEA recommended a condition requiring M&NJ to retain its interest in and take no steps to alter the historic integrity of all historic properties including sites, buildings, structures, and objects within the project right-of-way (the Area of Potential Effect) that are eligible for listing or are listed in the National Register until completion of the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f (NHPA).

Comments to the EA were due by June 6, 2008. SEA received comments from the SHPO, stating that the proposed abandonment would not adversely affect any properties that are eligible for listing or are listed in the National Register. No other comments were received. Accordingly, the condition recommended by SEA that M&NJ retain its interest in and take no steps to alter the historic integrity of the sites, buildings, and structures is no longer necessary, and the only condition to be imposed is that M&NJ contact NGS prior to beginning salvage activities. Based on SEA's recommendations, the proposed abandonment, if implemented as

conditioned, will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. This proceeding is reopened.
2. Upon reconsideration, the notice served and published in the Federal Register on May 20, 2008, exempting the abandonment of the line described above, is subject to the condition that M&NJ shall consult with NGS and notify NGS at least 90 days prior to beginning salvage activities that will disturb or destroy any geodetic station markers.
3. This decision is effective on its service date.

By the Board, Joseph H. Dettmer, Acting Director, Office of Proceedings.

Anne K. Quinlan  
Acting Secretary